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Glossary of Terms—

Basis of Knowledge—>protections for students not yet eligible for special education. An LEA is deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred: 1) the parent expressed concern in writing to administrator or teacher, 2) the parent has requested an evaluation, or 3) a teacher or other school personnel expressed specific concerns regarding patterns of behavior to administrator.

BIP— > Behavior Intervention Plan: A plan designed to teach the student a more acceptable behavior in place of inappropriate or problem behavior. The plan will include positive behavioral interventions, strategies and supports.

Change in Placement—> A removal from the student's program for disciplinary reasons that triggers procedural safeguards.

FBA—> Functional Behavioral Assessment: A problem-solving process that relies on a variety of techniques & strategies to identify the purposes of specific problem behavior & helps IEP teams to select interventions to address problem behavior.

IAES—> Interim Alternative Educational Setting: Must be selected so as to enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the IEP and to address behavior (for why the child is being removed) that are designed to prevent the behavior from recurring.

MD—> Manifestation Determination: Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, relevant IEP team members and the parent shall review all relevant information in the student's file, including the IEP, any teacher observations and any relevant information provided by the parents to determine if conduct was 1) caused by, or was in direct and substantial relationship to, the child's disability, or 2) a direct result of the LEA's failure to implement the IEP.



Discipline Requirements



Office of Special Education Programs

**NJDOE
Revised March 2008**



Removal for More than TEN (10) Consecutive Days

- ⇒ First 10 days, student subject to same discipline policy as non-disabled students
- ⇒ More than 10 consecutive days constitutes an AUTOMATIC change in placement

Convene a meeting of the LEA, relevant IEP team members and the parent

- Conduct MD meeting— Is the behavior a manifestation of the disability?

YES



Cannot suspend
Review BIP and/or
conduct FBA
May change program
at IEP meeting

NO



Must continue services
As appropriate, review
BIP and/or conduct FBA

- ⇒ **Administrator must notify Case Manager in writing of suspension, reason, and number of days**
- ⇒ **For all suspensions that are 5 or more consecutive days, “academic instruction shall be provided within five days of the suspension.” N.J.A.C. 6A:16-7.2(a)5**
- ⇒ **Preschool students shall not be suspended or expelled. N.J.A.C. 6A:14-2.8(a)1**
- ⇒ **On the date a decision is made to initiate a removal of a student that constitutes a change in placement of a student with a disability because of a violation of a code of student conduct, the procedural safeguards statement (PRISE) must be provided to the parent.**

Removal for More than TEN (10) Cumulative Days

- ⇒ First 10 days, student subject to same discipline policy as non-disabled students

A change in placement occurs if the student is subjected to a series of removals that constitute a pattern because they accumulate to more than 10 school days in a year, because the behavior is substantially similar to behavior in previous incidents and consideration of the following factors:

- Length of each removal
- Total amount of time student is removed
- Proximity of the removals to one another

***Is there a change in placement?**

YES



Hold meeting with
relevant members of
the IEP team

Conduct MD meeting—

Is the behavior a
manifestation of the disability?

YES



Cannot suspend
Review BIP and/or
conduct FBA
May change program
at IEP meeting

NO



May suspend
Must continue services
As appropriate, review
BIP and/or conduct FBA

SUBSEQUENT REMOVALS

Determine change in placement using criteria listed above— Is there a change in placement?

YES



Go back to above

NO



Go back to above

Removal to a 45-Day Interim Alternative Education Setting (IAES)

School Personnel—

May remove student to an IAES for 45 calendar days for:

- Drugs
- Weapons as defined by 18 U.S.C. §930(g)(2)
- Serious bodily injury to another as defined by 18 U.S.C. §1365(h)(3)

Administrative Law Judge (ALJ)—

May remove student for 45 calendar days when action of student is likely to result in injury to self and/or others

For both circumstances, must conduct a Manifestation Determination (MD)—

- ⇒ If behavior IS a manifestation, must review BIP and/or conduct FBA
- ⇒ If behavior IS NOT a manifestation, as appropriate (case by case basis), review BIP and/or conduct FBA

Informal Hearing—[N.J.A.C. 6A:16-7.2(a)2 and 7.3(a)2] Provides an opportunity for a student to present his/her version of events to the school administrator before the student may be suspended.

Formal Hearing—[N.J.A.C. 6A:16-7.3(a)10] Determines the facts and is conducted by the district board of education within 30 days of the decision to remove a student for more than 10 **consecutive** school days. Results of this hearing may be appealed to the Commissioner of Education.